

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2118 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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CHARITY COMMISSIONER

Versus

GULABRAI HARGOVANDAS SANGHAVI

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Appearance:

MS SIDDHI TALATI for Petitioner

MR DHIRENDRA MEHTA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/12/1999

ORAL JUDGEMENT

1. Challenge has been made by this civil revision application under section 115, C.P.C., 1908 to the order of the District Judge, Bhavnagar dated 26th April, 1994 passed in Misc. Application NO. 92 of 1991.

2. The facts of the case are that the respondent a practising advocate of Bhavnagar filed an application under section 56-A of the Bombay Public Trusts Act in the court of District Judge at Bhavnagar seeking thereunder advice/direction/opinion of mode of succession regarding administration of Yashonath Satsang Mandal, Bhavnagar. Under the impugned order, this application came to be granted by the District Judge and the mode of succession to the trust was made by nomination and accordingly direction was given to the Charity Commissioner to carry out those directions.

3. Learned counsel for the petitioner raised manifold contentions challenging the legality, propriety and correctness of this order but as the petitioner can not be said to be an aggrieved person in the matter at its instance, this revision application can not be entertained. Section 115 of C.P.C., 1908 after its amendment in the year 1976 provides that where the court is satisfied that the order impugned in the civil revision application is allowed to stand it will not occasion any failure of justice or will not cause any injury to the party as being against it, no interference of this court is called for therein. Whether that application was maintainable or not but by this order of the District Judge, none of the legal or any propriety right of the petitioner is being infringed and as such at its instance, this revision application can not be entertained.

4. It is a case where proper care has not been taken by the petitioner as well as other concerned officer in the State otherwise this litigation which otherwise was avoidable would not have been before this court. This court is already facing serious problem of heavy pendency of matters and the State Government is the biggest litigant in this court and in case its officers are not taking care and indiscriminately filing the litigations in which their rights are not being infringed in any way then position will become more serious. However, this order shall not be binding on the beneficiaries of the trust or other persons having interest in the trust but at the instance of the petitioner as stated earlier and again it is repeated at the cost of repetition this revision application is not maintainable and no interference can be made.

5. In the result, this civil revision application fails and the same is dismissed. As respondent has unnecessarily been dragged into litigation which otherwise was avoidable, the petitioner is directed to

pay Rs.1000/- as costs of this revision application to him. It is made clear that this order is not binding on any other trustee or beneficiary of the trust or some other person having interest in the trust and those category of persons, if aggrieved by the impugned order, have a right to approach either to the District Judge for review of the same or before this court by filing revision application or to challenge the same by taking appropriate remedy available. Rule discharged. Interim relief, if any, granted by this court stands vacated.

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zgs/-